

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RODNEY J. CONERLY,

Plaintiff,

v.

LAURIE SMITH, et al.,

Defendants.

Case No. 16-cv-03168-MEJ (PR)

**ORDER DENYING WITHOUT
PREJUDICE PLAINTIFF'S MOTION
FOR DELAYED RULING ON
SUMMARY JUDGMENT**

Re: Dkt. No. 26

Plaintiff has filed a motion to delay ruling on Defendants' motion for summary judgment. Plaintiff asserts that he is still awaiting discovery, through which he "seeks the necessary facts to overcome summary judgment." Dkt. No. 26 at 1. Plaintiff's motion is DENIED without prejudice. Defendants' motion for summary judgment is due on or before January 31, 2017. Plaintiff's opposition is due within twenty-eight days of the date the summary judgment motion is filed. If he determines at that time that necessary facts are unavailable to him due to lack of discovery, Plaintiff may, along with his opposition, file a declaration pursuant to Federal Rule of Civil Procedure 56(d). Rule 56(d) provides that if a party opposing a summary judgment motion shows "by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any other appropriate order. Fed. R. Civ. P. 56(d).

This order terminates Docket No. 26.

IT IS SO ORDERED.

Dated: January 6, 2017



MARIA-ELENA JAMES
United States Magistrate Judge